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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2392

**Introduced by Assembly Member John A. Pérez
(Principal coauthor: Assembly Member Pan)**

February 24, 2012

An act to add Chapter 13 (commencing with Section 3599.50) to Division 4 of Title 1 of the Government Code, and to add Article 4.6 (commencing with Section 14146) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 2392, as amended, John A. Pérez. Medi-Cal: CommuniCal.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing federal law provides for increased administrative funding for translation and interpretation services provided in connection with the enrollment, retention, and use of services under the Medicaid Program.

This bill would require the department to establish the Medi-Cal Patient-Centered Communication program (CommuniCal), to be administered by a 3rd-party administrator, to, commencing July 1, 2013, provide and reimburse for medical interpretation services to Medi-Cal beneficiaries who are limited English proficient (LEP). This bill would establish the CommuniCal Program Fund in the State Treasury, which would consist of moneys dedicated to the CommuniCal program, to be used upon appropriation by the Legislature to the department solely to fund the CommuniCal program.

Existing law provides for the certification of administrative hearing interpreters and medical examination interpreters for purposes of administrative adjudications.

This bill would require the State Personnel Board to be the certifying body for CommuniCal certified medical interpreters (CCMIs), to establish a certifying examination for those interpreters, and to maintain a registry of those persons who pass the exam, as specified. Commencing July 1, 2013, the bill would require Spanish-language interpreters to pass the exam and be listed on the registry in order to be eligible to provide services under CommuniCal. The bill would require the State Personnel Board, by July 1, 2013, to determine appropriate testing, training, and experience standards for other language interpreters to also be placed on the registry as CCMIs, as specified. The bill would also require the State Personnel Board to establish and charge fees that do not exceed reasonable costs for applicants to take the exam and be certified and listed in the registry and would require the State Personnel Board to adopt quality standards and medical interpretation certification requirements through regulations.

The Ralph C. Dills Act provides for employer-employee relations between the state and its employees, as specified, including, among other things, the right of state employees to form, join, and participate in the activities of employee organizations for the purpose of representation on all matters of employer-employee relations, as specified.

This bill would provide that CCMIs would have the right to form, join, and participate in the activities of a labor organization of their own choosing for the purpose of representation of specified employer-employee matters. The bill would provide that CCMIs would not be considered state employees for purposes of the bill, but would have the right to be represented by an exclusive labor organization of

their own choosing for the purpose of collective bargaining with the state on matters of mutual concern, as specified.

The bill would provide that upon application by petition, authorization cards, or union membership cards of a labor organization adequately showing that a majority of CCMIIs in the state desire to be represented exclusively by that labor organization, and no other labor organization is currently certified as the exclusive representative, the Public Employment Relations Board shall certify and grant exclusive representation to that labor organization, and would establish other election procedures to be administered by that board.

The bill would require that any agreement resulting from collective bargaining be legally binding upon the state and committed to writing, and would further require that, upon the completion of discussions and collective bargaining, any agreement be reduced to writing and be presented to the appropriate administrative, legislative, or other governing body in the form of a binding agreement, resolution, bill, law, or other form required for adoption.

The bill would provide that, after the certification of a labor organization, the state shall approve and have deducted, upon authorization in the case of dues deduction, from the ~~wages of~~ *appropriate reimbursement or other payment to* the employee the monthly amount of dues or service fees as certified by an executive officer of the labor organization, and shall transmit the amount to the treasurer of the labor organization.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California has long been recognized as one of the most
- 4 racially and linguistically diverse states; the state is home to
- 5 residents who speak over 200 languages.
- 6 (b) Approximately one in five Californians is limited English
- 7 proficient (LEP) and identifies as speaking English less than very
- 8 well.
- 9 (c) Language access and the right to interpretation services is
- 10 required under Title VI of the federal Civil Rights Act of 1964,
- 11 the Dymally-Alatorre Bilingual Services Act of 1973 (Chapter

1 17.5 (commencing with Section 7290) of Division 7 of Title 1 of
2 the Government Code), the Knox-Keene Health Care Service Plan
3 Act of 1975 (Chapter 2.2 (commencing with Section 1340) of
4 Division 2 of the Health and Safety Code), Section 11135 of the
5 Government Code, Section 1259 of the Health and Safety Code,
6 and California civil rights law.

7 (d) The demand for medical interpretation services by Medi-Cal
8 beneficiaries is significant, with 45.2 percent of Medi-Cal
9 beneficiaries speaking a language other than English.

10 (e) The state will experience an even greater demand for
11 language services as health care reform measures are implemented
12 over the next few years and 35 percent of Californians expected
13 to become newly eligible for Medi-Cal as a result of the federal
14 Patient Protection and Affordable Care Act (Public Law 111-148)
15 will speak English less than well.

16 (f) In California, language assistance services are provided in
17 an uncoordinated manner that lacks transparency and
18 accountability, and a majority of services are currently provided
19 ad hoc by family members and friends or untrained staff.

20 (g) California has the opportunity to meet the growing demand
21 early on by accessing millions of dollars in federal matching funds
22 to provide medical interpretation services to LEP Medi-Cal
23 beneficiaries.

24 (h) Professional medical interpretation services help reduce
25 avoidable medical errors and provider malpractice liability for
26 physicians and other health care providers.

27 (i) A coordinated program to offer medical interpreter services
28 will improve health care outcomes for LEP Californians and help
29 control health care costs that result from a lack of access to
30 preventative and primary care.

31 SEC. 2. It is the intent of the Legislature to do all of the
32 following:

33 (a) Create the CommuniCal program, which shall provide
34 reliable access to language interpretation for Medi-Cal beneficiaries
35 who are limited English proficient.

36 (b) Establish a mechanism for accessing federal Medicaid
37 matching funds to provide a majority of the funding for the
38 CommuniCal program.

39 (c) Enable trained and qualified interpreters to meet the demand
40 for language services for a significant portion of the estimated

1 three million Medi-Cal beneficiaries with limited English
2 proficiency.

3 (d) Facilitate accurate and timely communication between
4 limited-English-proficient patients and their health care providers,
5 which will improve quality of care, reduce medical errors, increase
6 patient understanding and compliance with health diagnoses and
7 care plans, and reduce the cost of health care by eliminating waste,
8 such as unnecessary tests and other care.

9 SEC. 3. Chapter 13 (commencing with Section 3599.50) is
10 added to Division 4 of Title 1 of the Government Code, to read:

11
12 CHAPTER 13. COMMUNICAL CERTIFIED MEDICAL
13 INTERPRETERS
14

15 Article 1. Certification and Registration of CommuniCal
16 Medical Interpreters
17

18 3599.50. (a) For purposes of this chapter, the following
19 definitions apply:

20 (1) "CommuniCal" means the Medi-Cal Patient-Centered
21 Communication program established pursuant to Article 4.6
22 (commencing with Section 14146) of Chapter 7 of Part 3 of
23 Division 9 of the Welfare and Institutions Code.

24 (2) "CommuniCal certified medical interpreter" or "CCMI"
25 means an interpreter who has been certified pursuant to Section
26 3599.51.

27 (3) "Certifying body" means the State Personnel Board.

28 (4) "Exam" means the CommuniCal Certified Medical
29 Interpreter Exam.

30 (b) Notwithstanding any other law, the State Personnel Board
31 shall serve as the CommuniCal certified medical interpreter
32 (CCMI) certifying body. The certifying body shall select an
33 examination through which competency will be tested and provide
34 for the certification of Spanish-language medical interpretation
35 within 120 days of the implementation of this bill. The examination
36 shall be known as the CommuniCal Certified Medical Interpreter
37 Exam. It shall have both an oral and a written component. The oral
38 component shall be conducted in person in each of the major
39 metropolitan areas in the State of California.

1 3599.51. (a) The certifying body shall select a nonprofit
2 organization to administer the exam. The nonprofit organization
3 shall have a statewide presence. A list of all interpreters who pass
4 the exam shall be maintained by the certifying body and shall be
5 known as the CommuniCal Certified Medical Interpreter Registry.
6 A CCMI is someone who has passed the exam, is listed on the
7 registry, and has been issued a certificate by the certifying body
8 attesting that the person is a CommuniCal Certified Medical
9 Interpreter.

10 (b) (1) Commencing July 1, 2013, in order to be eligible to
11 provide services under CommuniCal, Spanish-language interpreters
12 shall be required to pass the exam and be listed on the registry.

13 (2) For those languages of lesser diffusion or languages for
14 which a recognized medical interpreter exam has not been created,
15 the certifying body shall determine, by July 1, 2013, with certified
16 medical interpreters and their exclusive representatives, appropriate
17 testing, training, and experience standards for interpreters to also
18 be placed on the registry and listed as CommuniCal Certified
19 Medical Interpreters.

20 (3) In order to meet anticipated demand for services under
21 CommuniCal, all interpreters who have been previously otherwise
22 certified as medical interpreters by the certifying body within 30
23 days of the operative date of this chapter shall be immediately
24 listed on the registry.

25 3599.52. (a) The certifying body shall establish and charge
26 fees, which do not exceed the reasonable costs, for applicants to
27 take the exam. The certifying body shall establish and charge a
28 single fee that does not exceed the reasonable costs for certification
29 and listing on the registry. The purpose of these fees is to cover
30 the annual projected costs of carrying out this article. The fees
31 may be adjusted each fiscal year by a percent that is equal to or
32 less than the percent change in the California Necessities Index
33 prepared by the Commission on State Finance.

34 (b) Each CCMI shall pay a registry and certification fee, not to
35 exceed the reasonable costs, for the renewal of the certification
36 and continued listing on the registry. The registry and certificate
37 fee shall be due on July 1 of each year.

38 (c) The certifying body shall establish, maintain, administer,
39 and publish annually an updated registry of CCMI. The certifying

body may remove the name of a person from the registry if any of the following conditions occurs:

- (1) The person is deceased.
 - (2) The person notifies the board that the person is unavailable for work.
 - (3) The person does not submit a registry and certification fee or renewal fee as required by subdivision (b).
 - (4) The person fails to meet the quality standards and medical certification requirements established pursuant to Section 3599.53.
- (d) For the 2013–14 fiscal year only, the fee for certification and listing on the registry pursuant to paragraph (3) of subdivision (b) of Section 3599.51 is waived.

3599.53. The certifying body shall adopt quality standards and medical interpretation certification requirements through regulations, which shall include, but not be limited to, maintaining patient confidentiality and familiarity or experience working with medical terminology. It shall determine the testing requirements for certification in each language and create a list of those languages where standards permit registration of the interpreter.

3599.54. The exclusive representative of CCMIIs and a recognized nonprofit organization shall partner to create and administer a training program for medical interpreters, in order to prepare interpreters for the exam or other certification standards established for languages of lesser diffusion and provide continuing education for those CCMIIs placed on the registry. A community advisory committee shall be established to make recommendations on interpreter certification and services.

3599.55. The relationship of CCMIIs to all parties and recipients of service is one of independent contractor, unless otherwise specified by law.

3599.56. Only interpreters certified pursuant to this article shall be represented by the union for purposes of collective bargaining pursuant to Article 2 (commencing with Section 3610).

Article 2. Collective Bargaining for CommuniCal Certified Medical Interpreters

3610. (a) CCMIIs shall have the right to form, join, and participate in the activities of a labor organization of their own choosing for the purpose of representation on all matters specified

1 in this section. *The state action antitrust exemption to the*
2 *application of federal and state antitrust laws is applicable to the*
3 *activities of CCMI's and their exclusive representatives authorized*
4 *under this article or other applicable law.*

5 (b) CCMI's shall have the right to be represented by an exclusive
6 labor organization of their own choosing for the purpose of
7 collective bargaining with the State of California on matters of
8 mutual concern, including, but not limited to, the following:

9 (1) Development, maintenance, and application of the registry.

10 (2) The setting of reimbursements and rates for state-funded
11 medical interpreter programs.

12 (3) The allocation, process, procedure, distribution,
13 methodology, and manner of payment of interpreter
14 reimbursements and rates.

15 (4) Professional development, certification and training,
16 recruitment and retention of qualified interpreters, and language
17 access quality standards.

18 (5) Dispute resolution mechanisms binding on third-party
19 administrators and their subcontractors of state-funded interpreter
20 programs.

21 (6) Mechanisms and funding to improve state-funded medical
22 interpreter programs and the stability, funding, rules, regulations,
23 and operation of state-funded medical interpretation programs.

24 (7) Scheduling systems of interpreter services under state-funded
25 interpreter programs.

26 (8) Mediums and modes of delivery of interpretation services
27 under state-funded medical interpretation programs.

28 (9) The improvement and expansion of quality medical
29 interpretation services.

30 (10) The collection and disbursement of established dues or
31 fees to the exclusive representative of CCMI's.

32 (c) This section shall not apply to work performed as an
33 employee of an employer.

34 (d) The appropriate bargaining unit for CCMI's shall be a
35 statewide unit of eligible CCMI's.

36 (e) CCMI's are not public employees and this article does not
37 create an employer-employee relationship between CCMI's and
38 the state or patient-centered communication brokers for any
39 purpose, including, but not limited to, state employee eligibility
40 for health or retirement benefits, or vicarious liability in tort.

1 3611. A labor organization as referenced in this section is
2 defined as a labor organization described in Section 501(c)(5) of
3 the Internal Revenue Code which has as its primary purpose the
4 representation of public service providers in their relations with
5 state and other public entities.

6 3612. Upon request by a labor organization that is signed by
7 20 percent of CCMIIs, the certifying body shall furnish to the labor
8 organization a list of all CCMIIs including full names, telephone
9 numbers, e-mail addresses, and mailing or home addresses within
10 five days of the request.

11 3613. (a) Upon application by petition, authorization cards,
12 or union membership cards of a labor organization adequately
13 showing that a majority of CCMIIs in the state desire to be
14 represented exclusively by that labor organization, and no other
15 labor organization is currently certified as the exclusive
16 representative, the Public Employment Relations Board (PERB)
17 shall certify and grant exclusive representation of the CCMIIs to
18 the labor organization for the purposes set forth in this section.

19 (b) Upon application by petition, authorization cards, or union
20 membership cards of a labor organization adequately showing that
21 less than a majority but at least 30 percent of CCMIIs desire to be
22 represented exclusively by that labor organization, and no other
23 labor organization is currently certified as the exclusive
24 representative, the matter to determine representation shall be set
25 for a mail ballot election administered by PERB pursuant to its
26 rules and regulations for administering elections. If a PERB
27 regulation or rule conflicts with this section, this section shall
28 control.

29 (c) PERB shall accept, review, and certify all valid applications
30 submitted pursuant to subdivisions (a) and (b) pursuant to its rules
31 and regulations. If a PERB regulation or rule conflicts with this
32 section, this section shall control.

33 (d) Any representation election shall be a mail ballot election.

34 (e) Within 10 days of receipt of an adequate petition,
35 authorization cards, or union membership cards necessitating an
36 election, PERB shall conduct a preelection conference with the
37 labor organization and the state prior to scheduling an election for
38 the purpose of clarifying issues, obtaining stipulations, executing
39 a directed election order or consent election agreement, and taking
40 other actions to expedite the process. The labor organization and

1 the state shall engage in a good faith effort to reach a consent
2 election agreement stipulating the parties to appear on the ballot,
3 the form of the ballot, the CCMIIs eligible to vote, the rules
4 governing the election, and the date, time, and other specifics of
5 the mail ballot election. The state shall be represented by the
6 Department of Personnel Administration and the State Department
7 of Health Care Services.

8 3614. No other labor organization shall be permitted to
9 intervene in an election unless prior to the preelection conference,
10 by petition, authorization cards, or union membership cards, the
11 intervening labor organization adequately shows at least 30 percent
12 of CCMIIs in the state as of January 1 of the year the application
13 is made desire to be represented exclusively by the intervening
14 labor organization.

15 3615. PERB shall proceed to determine all issues or matters
16 in dispute. The determination and a directed election order or
17 consent election agreement between the labor organization and
18 the state shall be made within seven days of the conference.

19 3616. (a) PERB shall initiate a mail ballot election within 10
20 days of the execution of a directed election order or consent
21 election agreement. The election shall provide for an affirmative
22 vote for employee representation by the petitioning employee
23 organization. The proposition receiving the votes of a majority of
24 all valid votes cast shall win the election. Should no option receive
25 an absolute majority vote of all valid votes cast, a runoff vote
26 between the two options receiving the highest number of votes
27 shall occur within seven days.

28 (b) A preelection meeting shall occur with the labor organization
29 and the state 30 minutes prior to the mailing of ballots for the
30 purpose of resolving any final issues prior to the commencement
31 of the mail ballot election.

32 (c) The election shall be conducted in accordance with the
33 procedures established and approved pursuant to the consent
34 election agreement or directed election order.

35 (d) The supervising official from PERB shall determine the date
36 and time ballots must be received for tabulation, which date shall
37 not be sooner than 10 days or more than 20 days from the date the
38 voting commences. PERB shall be charged with validating the
39 ballots against a list of CCMIIs provided by the State Personnel
40 Board.

1 (e) A labor organization certified by PERB as receiving a
2 majority of all valid votes cast is the exclusive representative of
3 all CCMIIs in the state for purposes set forth in this section. All
4 CCMIIs who are eligible for the bargaining unit pursuant to Section
5 3610 subsequent to certification of the labor organization shall be
6 part of the bargaining unit and represented by the certified labor
7 organization.

8 3617. Discussions and collective bargaining between the
9 certified labor organization and the state and its designated agents
10 in the Department of Personnel Administration and the State
11 Department of Health Care Services shall commence within 30
12 days upon certification and at any time thereafter upon request of
13 the labor organization.

14 3618. The state and its designated agents in the Department of
15 Personnel Administration and the State Department of Health Care
16 Services shall be required to meet with the certified labor
17 organization before any regulation is proposed, promulgated, set,
18 or otherwise presented concerning any of the purposes for
19 collective bargaining set forth in Section 3610.

20 3619. Any agreement resulting from collective bargaining shall
21 be legally binding upon the state and committed to writing. Upon
22 the completion of discussions and collective bargaining, any
23 agreement shall be reduced to writing and be presented to the
24 appropriate administrative, legislative, or other governing body in
25 the form of a binding agreement, resolution, bill, law, or other
26 form required for adoption. Nothing herein shall prevent the parties
27 from agreeing to and effecting those provisions of an agreement
28 which have received legislative approval or those provisions which
29 do not require legislative action.

30 3620. Nothing in this article shall affect the right of a CCMI
31 to authorize a dues or service fee deduction from his or her
32 reimbursement.

33 3621. (a) After the certification of a labor organization, the
34 state shall approve and have deducted, upon authorization in the
35 case of dues deduction, from the ~~wages~~ of *appropriate*
36 *reimbursement or other payment* to members of the labor
37 organization the monthly amount of dues or service fees as certified
38 by an executive officer of the labor organization and shall transmit
39 the amount to the treasurer of the labor organization.

(b) After the certification of a labor organization, the state shall approve and have deducted from the ~~wages of~~ *appropriate reimbursement or other payment to* nonmembers a reasonable fair share service fee for the cost of representing them in negotiations, contract administration, subsidy rates, benefits, payment systems, training opportunities, and other matters related to those purposes listed in subdivision (b) of Section 3610. This fair share service fee shall not exceed the annual dues paid by members of the labor organization. The state shall transmit the amount of the fair share fee to the treasurer of the labor organization.

3622. Dues or fair share service fee obligations shall continue in effect as long as the labor organization is the recognized bargaining representative, notwithstanding the expiration of any agreement between the state and the recognized labor organization.

3623. (a) The state through its designated agents in the Department of Personnel Administration and the State Department of Health Care Services shall meet and collectively bargain in good faith with representatives of a certified labor organization and shall consider fully the proposals made by the labor organization on behalf of CCMI. "Meet and collectively bargain in good faith" means that the state and its designated agent and representatives of a certified labor organization shall have the mutual obligation to collectively bargain within a reasonable length of time in order to freely exchange information, opinions, and proposals.

(b) The state shall not interfere with, intimidate, restrain, coerce, or discriminate against CCMI due to the exercise of their rights under this section. A complaint alleging any violation of this section shall be processed as an unfair practice charge by PERB pursuant to its rules and regulations. The initial determination as to whether the charge of unfair practice is justified and, if so, the appropriate remedy necessary to effectuate the purposes of this section, shall be a matter within the exclusive jurisdiction of PERB. PERB shall apply and interpret unfair labor practices consistent with existing judicial interpretations of this section. If a PERB practice, regulation, interpretation, or rule conflicts with this section, this section shall control.

3624. Any charging party, respondent, or intervenor aggrieved by a final decision or order of PERB in an unfair practice case, except a decision of PERB not to issue a complaint in such a case, and any party to a final decision or order of PERB in a

1 representation, recognition, or election matter that is not brought
2 as an unfair practice case, may petition for a writ of extraordinary
3 relief from that decision or order pursuant to Section 3520.

4 3625. Execution of a valid written agreement between the state
5 and the certified labor organization shall bar the filing of an
6 application or petition for certification of a majority representative
7 for the length of the agreement except as otherwise provided in
8 this article. No application or petition for certification shall be
9 valid within one year of any prior certification.

10 3626. Should any court declare any other provision of this
11 chapter void, invalid, illegal, or unconstitutional, the remaining
12 provisions shall remain in full force.

13 3627. (a) The state shall not encourage or discourage
14 membership in a labor organization and shall not discriminate
15 against any CCMI on the basis of union activity, concerted action,
16 union membership, age, sex, race, religious beliefs, color, national
17 origin, sexual orientation, gender identity, or disability in
18 accordance with and as required by applicable state and federal
19 law. A CCMI shall not be subject to punitive action, or threatened
20 with punitive action, for the exercise of lawful action as an elected,
21 appointed, or recognized representative of any bargaining unit.

22 (b) Unless otherwise stated in this article, the state may adopt
23 reasonable rules and regulations after consultation in good faith
24 with representatives of a certified labor organization for the
25 administration of CCMI employer-employee relations under this
26 article. In the case of any conflict between rules and regulations
27 enacted pursuant to this article, including those subdivisions
28 adopting PERB rules, regulations, or procedures, the provisions
29 of this section shall control.

30 3628. Nothing in this chapter may be construed to interfere
31 with CCMI rights and responsibilities under federal law.

32 SEC. 4. Article 4.6 (commencing with Section 14146) is added
33 to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions
34 Code, to read:

35
36 Article 4.6. CommuniCal
37

38 14146. For the purposes of this article, the following definitions
39 shall apply:

1 (a) “CommuniCal” means the Medi-Cal Patient-Centered
2 Communication program.

3 (b) “CommuniCal certified medical interpreter” or “CCMI”
4 means an interpreter certified under the CommuniCal program
5 pursuant to Article 1 (commencing with Section 3599.50) of
6 Chapter 13 of Division 4 of Title 1 of the Government Code.

7 (c) “Department” means the State Department of Health Care
8 Services.

9 (d) “Medi-Cal managed care organizations” or “MMCOs” means
10 all models of Medi-Cal managed care, including county-organized
11 health systems, geographic managed care, and two-plan models.

12 (e) “Patient-centered communication broker” or “broker” means
13 the third-party administrator for the CommuniCal program.

14 14146.10. (a) The department shall establish the CommuniCal
15 program to provide and reimburse for certified medical
16 interpretation services to Medi-Cal beneficiaries who are limited
17 English proficient (LEP).

18 (b) Commencing July 1, 2013, CommuniCal shall offer medical
19 interpreter services to Medi-Cal providers serving Medi-Cal
20 beneficiaries on either a fee-for-service or managed care basis
21 pursuant to this article. The department shall adopt policies to
22 prohibit duplicate payments to CCMIIs and Medi-Cal MMCOs for
23 beneficiaries enrolled in an MMCO.

24 (c) A health care provider or entity entering into a Medi-Cal
25 provider agreement or a Medi-Cal managed care contract with the
26 state, including MMCOs and their subcontracting plans, and
27 fee-for-service providers, may utilize CommuniCal to provide
28 medical interpreter services to Medi-Cal beneficiaries.

29 (d) All contracts between MMCOs and their subcontractors,
30 including health providers and other health plans, shall include
31 provisions describing access to CommuniCal medical interpreter
32 services.

33 (e) The department shall pursue all available sources of federal
34 funding to establish and operate CommuniCal and shall seek any
35 federal approvals necessary to implement this article.

36 14146.11. CommuniCal shall include the provision of
37 in-person, telephonic, and video medical interpretation services.
38 To meet language access requirements and ensure patient safety,
39 in-person interpreter services shall be the preferred mode of

1 medical interpretation in the following instances whenever
2 possible:

- 3 (a) Family meetings regarding medical care.
- 4 (b) Medical encounters involving difficult or agitated patients.
- 5 (c) Medical encounters to make treatment decisions.
- 6 (d) Obtaining informed consent involving review of documents.
- 7 (e) Any medical encounter that, in the physician's judgment,
8 requires in-person interpretation for the health, safety, or well-being
9 of the patient.
- 10 (f) Psychiatric encounters.
- 11 (g) End-of-life discussions.

12 14146.12. (a) CommuniCal shall be administered by a
13 patient-centered communication broker.

14 (b) The department shall create and administer a competitive
15 Request for Proposals (RFP), and shall execute the resulting
16 contract.

17 (c) The broker shall be responsible for all of the following
18 duties:

- 19 (1) Registering CCMIs with Medi-Cal.
- 20 (2) Verifying CCMI certification with the State Personnel Board.
- 21 (3) Verifying Medi-Cal eligibility for interpreter services
22 utilizing the state's Medi-Cal Eligibility Data System (MEDS).
- 23 (4) Submitting billing summaries to Medi-Cal, aggregating the
24 cost for services provided.
- 25 (5) Ensuring compliance with all Medi-Cal and applicable
26 CommuniCal reporting requirements.
- 27 (6) Making payments to CCMI, including any dues and service
28 fee deductions.
- 29 (7) Scheduling CCMI appointments with Medi-Cal providers.
- 30 (8) Monitoring the quality of CommuniCal interpreter services
31 and complying with state oversight requirements of the program.
- 32 (9) Creating CommuniCal promotional materials for distribution
33 to Medi-Cal providers, MMCOs, and beneficiaries.
- 34 (d) The department shall make all applicable Medi-Cal reporting
35 requirements known to the broker and shall be responsible for the
36 broker's compliance with these requirements.

37 14146.13. (a) Notwithstanding any other law, only interpreters
38 certified pursuant to Article 1 (commencing with Section 3599.50)
39 of Chapter 13 of Division 4 of Title 1 of the Government Code
40 may participate in CommuniCal.

1 (b) CCMI shall be responsible for all of the following:

2 (1) Performing interpreter services independent of other policies,
3 rules, or procedures of conduct, except as provided by this article
4 or by applicable law.

5 (2) Performing interpreter services independent of direction,
6 except as otherwise provided by this article and applicable law.

7 (3) Preparing and submitting documentation to the broker in
8 support of time worked or other services rendered.

9 (4) Directing and controlling the manner and means of
10 interpretation services, except as otherwise provided in this article.

11 (c) Unless otherwise prohibited by this article or applicable law,
12 CCMI may do any of the following:

13 (1) Advertise, promote, or otherwise communicate availability
14 for services to clients and the general public.

15 (2) Provide office space, equipment, support services, forms,
16 supplies, and business cards, except as otherwise provided in this
17 article.

18 (d) (1) For purposes of the CommuniCal program, CCMI are
19 not state employees. CCMI shall be independent contractors of
20 the state.

21 (2) For purposes of the CommuniCal program, CCMI are not
22 employees of the broker, health care providers, or consumers.

23 (3) The state action antitrust exemption to the application of
24 federal and state antitrust laws is applicable to the activities of
25 CCMI and their exclusive representatives authorized under this
26 article or other applicable law.

27 14146.135. (a) The base reimbursement rate for CCMI shall
28 be determined through collective bargaining pursuant to Section
29 3610 of the Government Code and shall include the cost of the
30 broker.

31 (b) Reimbursement may be adjusted for factors such as
32 geography, language spoken, availability of interpreters, level of
33 certification, and travel time.

34 14146.14. The department shall issue guidance on the
35 administration of the CommuniCal program to ensure compliance
36 with this article and all applicable state and federal laws by all
37 contractors and subcontractors of the program.

38 14146.15. (a) The CommuniCal Program Fund is hereby
39 created in the State Treasury. Notwithstanding Section 16305.7
40 of the Government Code, any interest and dividends earned on

1 deposits in the fund shall be retained in the fund for purposes
2 specified in subdivision (c).

3 (b) Moneys in the fund shall consist of any funds dedicated to
4 the CommuniCal program.

5 (c) Moneys in the fund shall, upon appropriation by the
6 Legislature to the department, be used solely to fund the
7 CommuniCal program.

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